

U.S. v. Lee Way Motor Freight, Inc.

1977 WL 14, 15 Fair Empl.Prac.Cas. (BNA) 1385, 15 Empl. Prac. Dec. P 7884

1977 WL 14

United States District Court; W.D. Oklahoma.

United States of America et al., Plaintiffs

v.

Lee Way Motor Freight, Inc., et al., Defendants.

Civil Action No. 72-445

|

October 11, 1977

EUBANKS, D.J.

Final Judgment

*1 On December 27, 1973 this Court entered its findings of fact and conclusions of law wherein it found that defendant Lee Way had engaged in a pattern and practice of employment discrimination against blacks in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(e) *et seq.* and Executive Order 11246 (46 F.R. 12319).

On April 10, 1974 this Court entered a Judgment in which the defendant Lee Way was preliminarily enjoined from engaging in any acts of racial discrimination at any of its terminal locations. In that Judgment the Court ruled that a Special Master would be appointed to hear and determine the claims for relief of certain black individuals whom the Government contended had been harmed by the pattern and practice of discrimination at Lee Way and to make recommendations to this Court concerning certain prospective relief measures to be incorporated into the Final Judgment. The names of those black individuals were appended to the Court's Judgment.

Also on April 10, 1974 this Court entered an Order appointing Dr. Richard E. Coulson as Special Master in this cause. In that Order the Court directed, *inter alia*, that the Special Master examine on an individual by individual basis the claims for relief of each of the black individuals listed in the appendix to the Court's Judgment and submit a written report to the Court setting forth his findings of fact and conclusions of law on each of the individual claims together with his recommendations as to the relief, if any, which the Court should award to each of these black individuals.

On May 8, 1974 this Court entered a supplemental Order directing that the Special Master also hear the claims for relief of Ms. Juanita Collins and Mr. Fulton Marks, two black former employees of Lee Way whom the Government contended had been retaliated against by Lee Way because of their testimony as Government witnesses during the pattern and practice trial.

On February 22, 1977 the Special Master filed with this Court his written Report setting forth his findings of fact, conclusions of law and relief recommendations for those black individuals who filed with the Master a timely notice of intent to submit a claim for relief. In his Report the Master also recommended that certain general prospective relief measures be incorporated into the Final Judgment of this Court.

The parties filed a number of written objections to the Report of the Special Master, which objections were heard and ruled upon by the Court during hearings conducted on May 23-25, 1977 and June 9, 1977.

On August 8, 1977 this Court entered an Order remanding to the Special Master his Report and directing that he consider whether the relief he awarded to those claimants whom he found were the victims of discrimination at the Company which occurred prior to July 2, 1965, the effective date of Title VII, should be changed in light of the decisions of the Supreme Court in *Teamsters v. United States*, [14 EPD P 7579] – U.S. – (1977), 52 L.Ed. 2d 396; *United Airlines v. Evans* [14 EPD P 7577] – U.S. – (1977), 52 L.Ed. 2d 571; and *East Texas Motor Freight System v. Rodriguez*, [14 EPD P 7578] –U.S. – (1977), 52 L.Ed. 2d 453. The Master was also instructed to consider what effect, if any, the “futility theory” and rulings on burdens of proof set forth by the Supreme Court in the *Teamsters* opinion may have on claims which were the subject of the Master's Report. The Special Master was further directed to consider whether the seniority and back pay relief awarded to certain claimants whom he found were the victims of pre-Act discrimination could be sustained under Executive Orders 11246 and 10925. Finally, the Master was directed to consider whether under the Supreme Court's holding in *Teamsters* the definition of a “future vacancy” for those claimants in this Report who were found entitled to job offers by Lee Way should be revised to include any future vacancy involving a recall of laid-off employees, and to state the reasons for whatever definition of “future vacancy” the Master determined to adopt on remand.

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*2 On August 25, 1977 the Special Master filed with this Court his written Report on Remand in accordance with this Court's Order on August 8, 1977. The parties filed written objections to the Report on Remand, which objections were heard and ruled upon by the Court during a hearing conducted on September 12, 1977.

Wherefore this Court having fully reviewed the Report of the Special Master and the Report of the Special Master on Remand and further having reviewed, heard oral argument on, and ruled on the objections of the parties to both Reports, it is hereby Ordered, Adjudged and Decreed that the Report of the Special Master and the Report of the Special Master on Remand are adopted and incorporated by reference into this Final Judgment, except for the following modifications.

[Computation of Awards]

I. A. The Court does not accept the Special Master's ruling in his report of February 22, 1977 that back pay awards not terminated otherwise due to individual facts shall terminate as of April 30, 1974. The Government's objection to the back pay cut-off date adopted by the Master is sustained in part and overruled in part for the reasons set forth by the Court at the hearing of this objection on May 24, 1977. Having fully considered the arguments of the parties and the legal precedents on this issue, it is the holding of this Court that it has the authority to order, and does so order, that back pay with interest at the rate of 6% per annum compounded annually shall be awarded up to and including September 12, 1977, the date upon which this Court finally resolved all matters affecting relief for the individual claimants, unless the Master in either of his Reports has specifically determined that back pay should end at some earlier date for an individual claimant based upon the facts of that individual's claim. Back pay with interest at the rate of 6% per annum compounded annually shall not be awarded beyond September 12, 1977. The Government's objection that the Special Master erred in failing to award back pay up to the time each claimant entitled to relief under this Final Judgment is offered a job by Lee Way with remedial seniority is overruled. In the case of claimants Juanita Collins, Louis Harrison and Alvin Roberts, claimants whom the Master found had either been unlawfully discharged or retaliated against, the Court on its own motion

also rules that their back pay with interest at the rate of 6% per annum compounded annually shall be awarded up to and including September 12, 1977, but that their back pay shall not continue beyond that date.

B. This Court believes that a further remand to the Special Master for the purpose of reopening the record to compute back pay for the period of April 30, 1974 through September 12, 1977 is unnecessary. Having fully considered the arguments of the parties and the legal precedents on this issue the Court determines that it has the authority to order, and does so order, that an averaging formula be implemented for the purpose of computing a claimant's back pay for the remainder of the back pay period. The formula adopted by the Court for this purpose is as follows:

*3 For each full year prior to 1974 in which a claimant was found by the Master to be entitled to back pay, the claimant's actual earnings losses during those years shall be averaged together and that average shall be used to project the claimant's earnings losses from January 1, 1974 through September 12, 1977. Interest at the rate of 6% compounded annually shall continue to be assessed up through September 12, 1977.

It is also the decision of this Court that interest at the rate of 10% compounded annually shall be assessed on the earnings loss amounts owing to each of the claimants in this action from the date of the entry of the Final Judgment up to the date of payment to the claimant.

C. Attached as part of this Final Judgment is a chart setting forth the total earnings losses through September 12, 1977 of each claimant who is entitled to back pay, (Attachment A) *[Not reproduced]*. Each claimant's earnings loss has been calculated on a year by year basis. In any year in which the claimant's interim earnings exceeded the earnings he would have received in the job at Lee Way which is the subject of his claim, the claimant is shown on the chart as having incurred no earnings loss during that year. The Court has not accepted the Master's ruling that any excess interim earnings incurred by a claimant in a particular year is to be deducted from the claimant's accumulated earnings loss for prior years. In this respect the Government's objection to the ruling of the Special Master on this issue is sustained for the reasons set forth at the hearing of this objection on May 24, 1977.

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D. Lee Way is ordered to withhold from the gross back pay owing to each of the claimants listed on the chart attached to this Final Judgment the amount in federal, state and local taxes due on the gross back pay as if it represented wages paid to the claimant during the year in which he receives his back pay. Included in this withholding shall be the amount of social security taxes owed by the claimant on his back pay under the Federal Insurance Contribution Act (FICA), 26 U.S.C. 3101, *et seq.*

E. Lee Way is also ordered to pay to the Clerk of this Court the amount of social security taxes which would be due on each back pay amount as part of its employer contribution to the social security fund under 26 U.S.C. 3101, *et seq.* The Court recognizes that Lee Way has protested its being required to make this payment to the Internal Revenue Service and that there is a dispute between Lee Way and the Government on this matter. For this reason the Court has ordered that these payments be made provisionally to the Clerk of the Court. The parties are asked to confer in an attempt to reach a voluntary agreement on the disposition of these monies. If such an agreement cannot be reached, the Court will set a briefing schedule and ultimately decide the issue. In the interim the Clerk of the Court is ordered to invest all such monies as it receives from Lee Way in interest-bearing certificates of deposit. Upon withholding from gross back pay of federal, state and local taxes and payment to the appropriate taxing authorities under the provisions of paragraph I. D. of this Judgment and upon payment of the social security taxes into the registry of the Court required by this paragraph, Lee Way is completely and fully exonerated from any and all taxes that may or could have been asserted against it.

*4 F. Hereinafter set forth are the names, terminal locations, jobs to be offered, remedial seniority dates in those jobs, and back pay amounts, if any, for each claimant who has been found entitled to relief in this cause. Lee Way is ordered to pay the sum of \$1,818,191.33 as compensation for the earnings losses sustained by the claimants who have been found entitled to back pay.

TABULAR OR GRAPHIC MATERIAL SET AT THIS POINT IS NOT DISPLAYABLE

G. Each black incumbent employee of Lee Way who has been found entitled to an offer of an opportunity to transfer to a future vacancy in another job at Lee Way shall have a period

of 30 days from the date of transfer to decide whether or not he wishes to remain in that job. If during the 30-day period any such individual elects to return to his former job at Lee Way, he may do so without loss of seniority in his former job. Any black claimant who has been found entitled to an offer of an opportunity to fill an apprentice mechanic position at Lee Way shall have an additional 30-day retreat right to his former job beginning on the date he attains journeyman status.

H. The remedial seniority which is being awarded to those claimants referred to in the Special Master's Report and Report on Remand shall vest immediately as of the date they fill a future vacancy in the job to which they have been found entitled.

I. Those claimants who have been found entitled to back pay shall not be required to complete any period of probation or apprenticeship at Lee Way in order to be eligible for their back pay.

J. This Court does not believe that it is necessary to retain a Special Master in order to oversee the implementation of any relief provided for in this Final Judgment. This Court therefore declines to adopt the recommendations of the Special Master for retention of a Master as set forth in part of Findings 3, 4 and 5 at pages 399-400 of his Report and sustains the objection of defendant Lee Way to those portions of the Report. If any claimant who has been found entitled to fill a future vacancy in a job at Lee Way is subsequently disqualified by Lee Way from entering that job the parties are instructed to attempt to resolve informally any disputes which may arise concerning the basis for Lee Way's decision to disqualify such individual. If the parties are unable to reach an agreement on any such matter the Court reserves the right to resolve any such disputes upon motion by any party.

K. This Court does not accept the recommendations of the Special Master on prospective relief as contained in Finding 21a-j which appears at pages 438-441 of his Report. The Court sustains Lee Way's objections to this section of the Master's Report for the reasons set forth at the hearing before this Court on May 25, 1977.

[*Rulings on Objections*]

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II. The Court herein sets forth its rulings on the objections of the parties to the Special Master's Report filed on February 22, 1977 and to the Special Master's Report on Remand filed on August 25, 1977. The reasons stated by the Court for its rulings were issued orally from the bench at the hearings of May 23-25, 1977, June 9, 1977 and September 12, 1977 and may be found in the transcripts of those hearings.

**5 A. Rulings on the Government's Objections to the Master's Report Filed on February 22, 1977.*

1. The Government's objection that the Special Master erred in refusing to consider the claims of blacks which are predicated upon events occurring subsequent to June 22, 1972, the date of the filing of the Government's complaint in this action and the date the Court found the pattern and practice of employment discrimination against blacks had ceased, is overruled.

2. The Government's objection that the Special Master erred in refusing to follow the evidentiary standard set forth by the Tenth Circuit in *Jones v. Lee Way Motor Freight, Inc.*, [2 EPD P 10,283] 431 F.2d 245 (10th Cir. 1970), *cert. denied*, [3 EPD P 8139] 401 U.S. 954, is overruled.

3. The Government's objection that the Special Master erred in cutting off the back pay claims of all claimants other than those whom the Master found had been the victims of unlawful retaliation ^{and}/_{or} discharge at a date no later than April 30, 1974, is sustained in part and overruled in part.

4. The Government's objection that the Special Master erred in denying back pay to those black employees at Lee Way whom he found were discriminated against under this Court's Interim Road Transfer Order and Interim Shop Transfer Order, is overruled.

5. The Government's objection that the Special Master erred in deducting a claimant's excess earnings, in years where such earnings occurred, from the claimant's accumulated earnings loss for prior years, is sustained.

6. The Government's objection that the Special Master erred in not permitting the Government to discover and introduce evidence on fringe benefit loss, and in not including such losses in the claimants' back pay awards is overruled.

7. The Government's objection that the Special Master erred in cutting off or otherwise reducing the back pay of claimants who declined prior offers to transfer to other jobs at Lee Way without seniority carryover is overruled.

8. The Government's objection that the Special Master erred in ruling that Lee Way was not liable for back pay to claimants denied road driver jobs by a predecessor company, which discrimination was perpetuated by Lee Way, is overruled.

9. The Government's objection that the Special Master erred in arbitrarily restricting his consideration of the Government's evidence with respect to the claims of Messrs. Henderson, Watson and White, black applicants rejected by Lee Way on the grounds that they did not meet its minimum height standard, is overruled.

10. The Government's objection that the Special Master erred in denying relief to certain claimants based upon findings of fact which are contrary to this Court's original findings of fact on those claimants made in connection with the pattern and practice trial and are not based upon any new evidence which would show that this Court's original findings were erroneous is overruled.

11. The Government's objection that the Special Master erred in concluding that those claimants who have been discriminated against may not compete for any future vacancy where an employee on layoff has recall rights to that vacancy was overruled by this Court at the hearing of this objection on May 24, 1977. That ruling is vacated, inasmuch as this issue was remanded to the Master for reconsideration under the Supreme Court's decision in *Teamsters v. United States, supra*, and the Master's original determination on the issue was revised in his Report on Remand. The Court approves the Special Master's decision on this issue as set forth in his Report of the Special Master on Remand.

**6* 12. The Government's objection that the Special Master erred in refusing to permit Claude Higgs and Norman Watson to present their claims for relief is overruled.

13. The Government's objection that the Special Master erred in refusing to order goals and timetables to correct the present effects of Lee Way's past discriminatory hiring practices is overruled.

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14. The Government's objections that the Special Master committed error in making certain findings or rulings with respect to the individual claimants listed below are overruled.

I.B. Boyd

Leo Scruggs

Nib E. Hill

Sandy von Hill II

Jeff Thomas

James Harper

Charles Chandler

Wilma Pendleton

Fulton Marks, Jr.

Cleophus Frost (road driver claim)

Willie Earl

Willis Jones

John Gissandaner

Thomas Combs

Wendell Harrison

James Spells

Willie Frazier

Howard Whittenberg

15. The Court originally overruled the Government's objections to the failure of the Special Master to grant any relief to claimants Audrey Daniels, James Hill, John Crouch and Clinton Lewis. That ruling is vacated insofar as the Master subsequently found each of these claimants entitled to

relief in his Report on Remand, following the decision of the Supreme Court in *Teamsters v. United States, supra*.

B. Rulings on Lee Way's Objections to the Master's Report Filed on February 22, 1977.

1. Lee Way's objection that the Special Master erred by failing to reduce the individual back pay award made to road driver claimants by an amount allocable to "road expenses" which each such individual would have been required to expend as an incident to his employment as a road driver, is overruled.

2. Lee Way's objection that the Special Master erred in refusing to cut off back pay liability on June 22, 1972, the date the Government filed its complaint in this case and the date the Court found the pattern and practice of employment discrimination against blacks had ceased, is overruled.

3. Lee Way's objections that the Special Master erred in failing to adopt Lee Way's "average man" or "best man" theories on mitigation of damages in finding that most of the claimants had properly mitigated their damages, and in thereby failing to reduce the back pay otherwise allowable by amounts "earnable with reasonable diligence" as required by § 706(g) of Title VII, are overruled.

4. Lee Way's objection that the Special Master erred in failing to limit or preclude back pay awards to the claimants listed below because of personal laches is overruled.

William Johnson

Orville Wood

Caldee Jordan

Billy Medlock

Arthur Lee Henderson

Houston Landrum

Lonzo Madison

Wendell Simpson

J. Timmons

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Brady Toney

M. Lee

J. Scott

T. Adams

5. Lee Way's objection that back pay awards to be received by individual claimants do not constitute taxable income is overruled.

6. Lee Way objected to the award of interest to be compounded at the rate of 6% per annum on individual back pay awards for the following reasons: (a) interest on gross earnings without adjustment for amounts which Lee Way asserts would have been withheld as taxes makes the individual claimant more than whole and constitutes a penalty to be borne by the defendant; (b) an award of pre-judgment interest is inappropriate in this case because the amount of the back pay claims was not liquidated until the final judgment of the District Court; (c) an award of interest on back pay to individual claimants should be barred because of personal laches. This objection is overruled.

*7 7. Lee Way's objection that the Special Master erred when he awarded back pay to shop claimants in that it was based upon job vacancies occurring prior to July 2, 1965 and attributed to claimants more jobs than were actually available was originally overruled by the Court. That part of Lee Way's objection regarding relief based upon job vacancies occurring prior to July 2, 1965 was subsequently remanded to the Master for reconsideration in light of the Supreme Court's decision in *Teamsters v. United States, supra*. Accordingly, that part of the Court's original ruling overruling Lee Way's objection is vacated, and the Court adopts the Report of the Special Master on Remand. The Court's original ruling on the remainder of Lee Way's objection is affirmed.

8. Lee Way's objection that the Special Master erred in finding that individual discrimination occurred when the vacancy the Master awarded to certain discriminatees was filled by other minorities is overruled.

9. Lee Way's objection that the Special Master erred in paragraph 21 of that section entitled "Back Pay

Relief" (Master's Report, p. 410) by failing to clarify the specific reasons which will be accepted for a claimant's rejection of a future vacancy to which he has been found to be entitled, is overruled.

10. Lee Way's objection that the Special Master erred in failing to require the completion of a probationary period prior to the receipt of back pay and further erred by failing to provide for a definite and coincident period within which the claimant might retreat to his former job without a loss of seniority is sustained in part and overruled in part. The Court does not require the completion of a probationary period as a condition precedent to the receipt of back pay. The Court does establish a period subsequent to the acceptance of a position awarded by the Special Master within which an individual claimant may retreat to his former position without a loss of seniority as more fully set forth in paragraph I. G. of this Judgment.

11. Lee Way's objection that the Special Master erred by failing to include in his report his order of February 18, 1975, which order granted Lee Way's Motion in Limine and precluded the Government from discovering and offering evidence pertaining to fringe benefit claims of the claimants with regard to employer contributions to health and welfare funds or trusts and pension funds or trusts, is sustained. That order of the Special Master is hereby incorporated into this Judgment.

12. Lee Way's objection that the Special Master erred in specifying that certain duties would be performed by a Master in the implementation of the recommended relief, as set forth in part of his Findings 3, 4 and 5 at pages 399-400 of the Report, is sustained.

13. Lee Way's objection that the Special Master erred by ruling that the statute of limitations for recovery of back pay by claimants was tolled for all purposes by the filing of the "Marcus Jones" charges with the EEOC against Lee Way and, that as a result, the back pay period extended to July 2, 1965, was first sustained by the Court at the time this objection was orally argued on May 25, 1977. At that time the Court ruled that back pay could only be recovered from a point two years prior to the filing of the Government's complaint, *i.e.*, June 22, 1970. The Court subsequently entertained a motion filed by the Government for reconsideration of this bench ruling. In an order dated August 8, 1977 the Court vacated its bench

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H.J. Edwards

Alvin Roberts

Howard Walter

Gwendolyn Foreman

George Ware

22. The Court originally overruled Lee Way's objections that the Special Master erred in awarding any relief to claimants L.V. Davis, Carnell Gentry, Daniel Looney and Norah Walker. Each of these claims was later reconsidered by the Master following the Supreme Court's decision in *Teamsters v. United States, supra*. In his Report on Remand the Master found that none of these claimants is entitled to any relief in this action. Accordingly, the Court's earlier ruling is vacated insofar as the Master subsequently found that none of these claimants is entitled to any relief.

*9 23. The Court originally overruled Lee Way's objections that the Special Master erred in awarding any relief to the claimants Leon Hicks, Otto Caldwell, Billy Joe Lewis, John Davenport, George Thompson, and Cleophus Frost. Each of these claimants was later reconsidered by the Master following the Supreme Court's decision in *Teamsters v. United States, supra*. In his Report on Remand, the Master modified the recommended relief to certain of these claimants. Accordingly, the Court's earlier ruling is vacated insofar as the Master subsequently found that the relief originally recommended for these claimants should be modified.

C. Rulings on the Teamsters' Objections to the Master's Report Filed on February 22, 1977.

1. The Teamsters' objection that the Special Master erred in recommending that a permanent injunction be entered against them was originally overruled by this Court. As a result of the Supreme Court's decision in *Teamsters v. United States, supra*, this Court reconsidered on its own motion the issue of whether the Teamsters should be placed under a permanent injunction. Having further considered the issue, this Court hereby vacates its earlier ruling and sustains the Teamsters' objection to being placed under a permanent injunction in this case.

2. The Teamsters' objection that the Special Master erred in failing to rule that the remedial seniority awarded to claimants found to have been unlawfully denied transfer to or employment in various positions at Lee Way be allowed to vest only after such claimants have remained in those positions for at least 30 days is overruled.

3. The Teamsters' objection to the Master's award of seniority carryover for acts of discrimination which occurred prior to July 2, 1965, the effective date of Title VII, was at first overruled by this Court. This issue was thereafter remanded to the Master for further consideration in light of the decision of the Supreme Court in *Teamsters v. United States, supra*. The Court accordingly vacates its earlier ruling on this objection.

4. The Teamsters' objection that the Special Master erred in awarding relief to certain claimants based upon job vacancies filled by other minorities is overruled.

5. The Teamsters' objection to the Master's failure to include in his Report a recommendation that the Government pay to the Teamsters their attorneys' fees and costs incurred since the reference to the Master is overruled.

D. Rulings on the Government's Objections to the Master's Report on Remand Filed on August 25, 1977.

1. The Government's objection that the Special Master erred in ruling that he lacked jurisdiction under the Order of Remand to consider, and in failing to consider, the issue of whether the Oklahoma City Shop collective bargaining agreements have negotiated over the years with a design to discriminate against black porters at Lee Way is overruled.

2. The Government objected that the Special Master erred in ruling that the Government may not seek seniority carryover relief for individuals who have been harmed by a government contractor's breach of its non-discrimination obligations under Executive Order 11246 and its predecessor, Executive Order 10925. This objection is overruled.

*10 3. The Government's objection that the Special Master erred in failing to reconsider under the Supreme Court's decision in *Teamsters v. United States, supra*, the evidence as it relates to the claims of certain black incumbent employees of Lee Way who, after the effective date of Title VII,

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were denied road driving jobs because of the Company's application of its then existing no-transfer rule, is overruled.

4. The Government's objection that the Special Master erred in denying any back pay award to claimant Clinton Lewis and in thereby failing to follow this Court's bench ruling of May 24, 1977 is overruled, and the Government's motion for reconsideration of the Court's initial ruling is overruled.

5. The Government's objection that the Special Master erred in failing to find claimants Willis Jones and L.V. Davis entitled to relief under the Supreme Court's holding in *Teamsters v. United States*, *supra*, is overruled. E. *Rulings on Lee Way's Objections to the Master's Report on Remand Filed on August 25, 1977.*

1. Lee Way's objection that the Special Master erred in imposing on the defendant employer the burden of persuasion as part of the burden of proof on the issue of job vacancies, is overruled.

2. Lee Way's objection that the Special Master erred in concluding that Lee Way's no-transfer rule perpetuated the effects of pre-Act discrimination, is overruled.

F. *Ruling on the Teamsters' Objection to the Master's Report on Remand Filed on August 25, 1977.*

1. The Teamsters' objection that the Special Master erred in ruling that those claimants entitled to job transfer or employment offers in various jobs at Lee Way may use their remedial seniority to compete with laid-off employees in filling future vacancies in those positions beginning October 1, 1978, if they have not by that time been offered an opportunity to fill such a vacancy, is overruled.

[*College Degree Requirements*]

III. This Court in its findings on the pattern and practice aspects of this case determined that Lee Way's requirement of a college degree for entry into the Company's management training program has a substantial and adverse impact on blacks, and that this educational qualification is not required by business necessity. Lee Way is therefore enjoined from requiring black applicants for its management training program to possess a college degree.

IV. This Court shall retain jurisdiction of this action for the purpose of implementation and enforcement of this Judgment, including but not by way of limitation, the issuance of such additional orders as may be necessary and as the interest of justice may require, to insure that no acts of discrimination based on race shall be committed against any of the claimants awarded relief in this action in their enjoyment of that relief who are now or who may hereinafter become employees of Lee Way. At an appropriate time after entry of a Final Judgment and after all of the relief for the claimants provided herein, excluding retention of jurisdiction, has been implemented, any of the parties hereto may ~~move the Court to terminate its jurisdiction in this case~~ ~~acted~~ through December 27, 1973. Defendant Lee Way is ordered to pay the Government its recoverable costs incurred after December 27, 1973.

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